



FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 12-108; DA 23-66; FR ID 124910]

Closed Captioning Display Settings Proposal

AGENCY: Federal Communications Commission.

ACTION: Notice, request for comments.

SUMMARY: In this document, the Media Bureau of the Federal Communications Commission (Commission) seeks comment on a proposal in the record of this proceeding that when the Commission is determining whether specific closed captioning display settings are readily accessible, it should consider the following factors: proximity, discoverability, previewability, and consistency and persistence.

DATES: Comments are due on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]; reply comments are due on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by MB Docket No. 12-108, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, public notice, DA 20-304 (March 19, 2020).

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Diana Sokolow, Diana.Sokolow@fcc.gov, of the Policy Division, Media Bureau, (202) 418-2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, DA 23-66, released on January 24, 2023. The full text of this document is available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat via ECFS and at <https://www.fcc.gov/document/media-bureau-seeks-comment-captioning-display-settings-proposal>.

In 2015, the Commission proposed rules that would require manufacturers of covered apparatus and multichannel video programming distributors (MVPDs) to make closed captioning display settings readily accessible to individuals who are deaf and hard of hearing.¹ In January 2022, the Media Bureau released a public notice seeking to refresh the record on the proposals contained in the Second Notice of Proposed Rulemaking (*Second FNPRM*).² Comments were due February 17, 2022, and reply comments were due March 4, 2022. In response to the *Closed Captioning Display Settings PN*, a coalition of consumer groups proposed that the Commission

¹ *Accessibility of User Interfaces, and Video Programming Guides and Menus*, 81 FR 5971 (Feb. 4, 2016) (*Second FNPRM*).

² See *Accessibility Rules for Closed Captioning Display Settings*, 87 FR 2607 (Jan. 18, 2022) (*Closed Captioning Display Settings PN*).

should require closed captioning display settings to be proximate, discoverable, previewable, and consistent and persistent. The Consumer Technology Association (CTA) expressed concern about the proposed factors, and asserted that further public comment was necessary. We believe that the Commission would benefit from further comment in this instance, and accordingly, this public notice seeks further comment on the 2022 proposal of the Consumer Groups in their comments to rely on these four factors to evaluate whether closed captioning display settings are readily accessible.

Interested parties should focus their comments on the specific issue of whether, if the Commission adopts rules governing the accessibility of closed captioning display settings, it should consider the four factors proposed by the Consumer Groups in 2022 – proximity, discoverability, previewability, and consistency and persistence – in determining whether closed captioning display settings are readily accessible.³ Should the four factors have the meanings the Consumer Groups proposed in 2022? Should the factors be non-exhaustive, such that the Commission may consider additional factors as particular situations warrant? Commenters should provide any other information relevant to the Commission’s determination of how to proceed on this issue.

Initial Regulatory Flexibility Analysis. The *Second FNPRM* included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. 603, exploring the potential impact on small entities of the Commission’s proposals. The Media Bureau invites parties to file comments on the IRFA in light of this request for further comment.

Ex Parte Rules. This matter shall continue to be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any

³ As proposed by Consumer Groups, “proximity” would involve consideration of the number of steps required to access closed captioning display settings, as well as whether closed captioning display settings are available on the same device as the video programming; “discoverability” would involve consideration of whether it is simple and intuitive for viewers to find closed captioning display settings; “previewability” would involve consideration of whether viewers can preview the appearance of closed captions on programming on their screen while changing the closed captioning display settings; and “consistency and persistence” would involve consideration of whether access to closed captioning display settings is “consistent . . . across devices and video platforms and across different applications on the same device” and persistent over time.

oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Filing Requirements. All filings responsive to the public notice must reference MB Docket No. 12-108. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic

Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

Federal Communications Commission.

Thomas Horan,

Chief of Staff,

Media Bureau.

[FR Doc. 2023-02116 Filed: 1/31/2023 8:45 am; Publication Date: 2/1/2023]